

**United States District Court**  
**for the**  
**District of Alaska**

**Request for Modification of Conditions or Term of Supervised Release**  
**with Consent of the Offender**

*(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: Johnny Lee Napier

Case Number: 4:04CR0033 (JWS) ~~(JMF)~~

Sentencing Judicial Officer: James M. Fitzgerald, Senior U.S. District Court Judge

Date of Original Sentence: June 24, 2005

Original Offense: Fraudulent Obtaining, Conversion and Misapplication of Federal Grant  
Funds in violation 18 U.S.C. § 666(a)(1)(A)

Original Sentence: Nine months imprisonment, three years supervised release, special  
conditions, a \$100 special assessment and \$104,000 restitution

Date Supervision Commenced: April 28, 2006

**PETITIONING THE COURT**

- ☐ To extend the term of supervised release for \_\_\_\_\_ years, for a total term of \_\_\_\_\_ years.  
☒ To modify the conditions of supervised release as follows:

1. The defendant shall pay the outstanding balance of any court-ordered fine or restitution during the period of supervision in monthly installments of not less than 10% of the defendant's gross monthly income or \$25, whichever amount is greater.
2. The defendant shall refrain from unlawful use of controlled substances and shall submit to one drug test within 15 days of release on supervision and at least two periodic drug tests thereafter, not to exceed 12 tests per month, at the direction of the probation officer.

**CAUSE**

Modification number one is sought in order to comply with 18 U.S.C. §§ 3572 and 3664(f)(2), as well as U.S. v. Gunning, 339 F. 3<sup>rd</sup> 948, which require the payment schedule to be set by the Court.

Modification number two is sought in order to continue drug testing in this case in compliance with U.S. v. Stephens, No. 04-50170, 2005 WL 2106158 (9<sup>th</sup> Cir. Sept. 2, 2005).

Request for Modification of Conditions or Term

Johnny Lee Napier

4:04CR0033 (JMF)

Respectfully submitted,

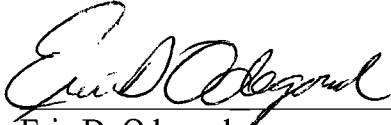


Toni M. Ostanik

U.S. Probation/Pretrial Services Officer

Date: April 28, 2006

Approved by:



Eric D. Odegard

Supervising U.S. Probation Officer

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**THE COURT ORDERS:**

- ☒ The Modification of Conditions as Noted Above  
☐ No Action  
☐ Other:

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**REDACTED SIGNATURE**

RALPH R. BEISTLINE  
U.S. District Judge



Date: 5-18-06

PROB 49

Waiver of Hearing to Modify Conditions  
of Probation/Supervised Release or Extend Term of Supervision

**UNITED STATES DISTRICT COURT**  
**for the**  
**DISTRICT OF ALASKA**

**U.S.A. v Johnny Lee Napier**

**Docket No. 4:04CR0033(JMF)**

I, Johnny Lee Napier, have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my conditions of supervised release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my conditions of supervised release or to the proposed extension of my term of supervision:

1. The defendant shall pay the outstanding balance of any court-ordered fine or restitution during the period of supervision in monthly installments of not less than 10% of the defendant's gross monthly income or \$25, whichever amount is greater.
2. The defendant shall refrain from unlawful use of controlled substances and shall submit to one drug test within 15 days of release on supervision and at least two periodic drug tests thereafter, not to exceed 12 tests per month, at the direction of the probation officer.

Signed:

Johnny Lee Napier  
Johnny Lee Napier  
Probationer or Supervised Releasee

Date:

MAY 1, 2006

Witness:

Toni M. Ostanik  
Toni M. Ostanik  
U.S. Probation/Pretrial Services Officer

Date:

MAY 1, 2006